

1984 WL 249913 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 22, 1984

*1 Ms. Helen T. Zeigler
Special Assistant for Legal Affairs
Office of the Governor
Post Office Box 11450
Columbia, South Carolina 29211

Dear Ms. Zeigler:

Attorney General Medlock has referred your letter of June 20, 1984, concerning the constitutionality of H.3976, R-563, to me for response. That act would revise and increase the compensation of officers and members of the governing commission of the Greenwood Metropolitan District. For the following reasons, the act is of doubtful constitutionality.

Of course, if enacted, H.3976, R-563, as any other act, would be presumed to be constitutional by the courts. Its invalidity would have to appear beyond a reasonable doubt. [Trustees of Wofford College v. City of Spartanburg](#), 201 S.C. 315, 23 S.E.2d 9 (1943).

However, certain constitutional problems do appear to exist relative to H.3976, R-563. According to Section 1 of Act No. 441, 1959 Acts and Joint Resolutions, which Act created the District, the area comprising the District is contained solely within Greenwood County. Thus, H.3976, R-563 deals with only a specific county. As such, it is similar to the laws which the Supreme Court has struck down as violative of [Article VIII, Section 7 of the South Carolina Constitution](#), which section prohibits the enactment of laws for a specific county. [Cooper River Parks and Playground Commission v. City of North Charleston](#), 273 S.C. 639, 259 S.E.2d 107 (1979); [Torgerson v. Craver](#), 267 S.C. 558, 230 S.E.2d 228 (1976); [Knight v. Salisbury](#), 262 S.C. 565, 206 S.E.2d 875 (1974).

Former Attorney General McLeod issued an opinion dated July 31, 1979 (copy enclosed) that similar legislation providing for compensation for members of the governing body of the Edgefield County Water and Sewer Authority was most probably unconstitutional. That opinion was based on the 'no laws for a specific county' language of [Article VIII, Section 7](#) as interpreted in [Torgerson v. Craver, supra](#).

While we need not address the possibility that the Act would be violative of Article III, Section 34(IX) since [Article VIII, Section 7](#) is dispositive of the issue, it should be noted that a general law concerning compensation of members of governing bodies of special purpose or public service districts was enacted by the General Assembly in 1980 which would appear to apply to the Greenwood Metropolitan District. See, [Section 6-11-91, Code of Laws of South Carolina](#) (1983 Cum.Supp.).¹ This Office has rendered an opinion dated March 13, 1984, on that Code section; a copy is enclosed herewith for your information.

In conclusion, we would advise that H.3976, R-563, would be of doubtful constitutionality. Of course, this Office possesses no authority to declare an act of the General Assembly invalid; only a court would have such authority.

Please advise us if we may provide clarification or additional assistance.

Sincerely,

Patricia D. Petway

*2 Assistant Attorney General

Footnotes

1 [Section 6-11-91](#) provides the following:

Notwithstanding any other provision of law the governing body of any public service district or special purpose district may by resolution or ordinance fix or change the compensation or other benefits including insurance benefits for the members of the district governing body. Compensation shall not exceed the amounts authorized for mileage for members of state boards, committees and commissions, insurance benefits shall not exceed those provided for state employees and per diem shall not exceed thirty-five dollars a day.

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